

STATE OF INDIANA)

COUNTY OF ALLEN)

ss:

IN THE ALLEN SUPERIOR COURT

CAUSE NO. 08002-14 08 CT-000397

TED FEIPEL,

Plaintiff,

v.

GANDER MOUNTAIN COMPANY, d/b/a
GANDER MOUNTAIN and HUNTER'S
MANUFACTURING COMPANY, INC.
d/b/a TENPOINT CROSSBOW
TECHNOLOGIES,

Defendants.

FILED
CLERK OF SUPERIOR COURT
ALLEN COUNTY, INDIANA
AUG 22 PM 1:51

PLAINTIFFS' COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiff, Ted Feipel ("Feipel"), by counsel, for his causes of action against the Defendants, Gander Mountain Company d/b/a Gander Mountain ("Gander Mountain") and Hunter's Manufacturing Company, Inc. d/b/a TenPoint Crossbow Technologies ("Hunter's Manufacturing"), alleges and states as follows:

I. INTRODUCTION

1. This lawsuit arises out of a injury that took place in Allen County, Indiana on August 24, 2012, when Feipel fired a Titan Xtreme TenPoint Crossbow ("Crossbow") that was designed, manufactured and/or sold by the Defendants. After shooting the Crossbow, the bowstring released and severely injured Feipel's left thumb. As a direct and responsible cause of the Crossbow's defective design and the Defendants' negligence, Feipel suffered and continues to suffer damages including but not limited to personal injuries, bodily disfigurement, physical pain and suffering, mental anguish, medical costs and loss of income. Feipel seeks all damages

under Indiana law, interests, costs, and all other just and proper relief.

II. PARTIES

2. Feipel is an individual and citizen residing in New Haven, Allen County, Indiana.

3. Gander Mountain is a Minnesota corporation with its principal place of business located in St. Paul, Ramsey County, Minnesota. Gander Mountain regularly engages in business in the State of Indiana and maintains nine (9) different commercial locations throughout the State of Indiana.

4. Hunter's Manufacturing is an Ohio corporation with its principal place of business located in Portage County, Ohio.

III. JURISDICTION AND VENUE

5. The Court has both personal and subject matter jurisdiction because this lawsuit involves state tort law, the Plaintiff is a citizen of the State of Indiana, and the Defendants regularly conduct business in the State of Indiana. Allen County is the proper venue because it is the county where the injury at issue occurred and/or the county where the Crossbow was purchased.

IV. FACTS

6. On August 9, 2012, Kent Rybolt ("Rybolt") purchased a Crossbow, item # G51474, from Gander Mountain, Store #187, located at 6043 Lima Road, Fort Wayne, Indiana 46818. (See Crossbow images and Gander Mountain Store # 187 receipt, attached as Exhibits "A" and "B").

7. On August 24, 2012, Feipel was with Rybolt. Feipel, an experienced hunter that has previous experience using crossbows, fired the Crossbow and severely injured his left thumb

when the bowstring released.

8. As a result of firing the Crossbow, Feipel sustained a serious left thumb injury and had to be rushed to the Emergency Room at Parkview Hospital.

9. X-rays of Feipel's thumb were taken at Parkview Hospital which revealed that Feipel suffered a distal tuft displaced fracture as a result of firing the Crossbow. (See X-Ray Report, p. 25, attached as Exhibit "C").

10. Feipel's left thumb occasionally experiences numbness, is noticeably deformed, and gets caught or snagged on objects as a result of the injury caused by the faulty Crossbow.

V. STATEMENT OF CLAIMS

COUNT I: Strict Product Liability under Ind. Code § 34-20-1-1 *et. seq.*

11. Feipel incorporates by reference each paragraph above as if the same were fully set out herein.

12. The Crossbow is a "product" for the purposes of Ind. Code § 34-20-1-1 *et. seq.*

13. Feipel is a "user" and/or "consumer" for purposes of Ind. Code § 34-20-1-1 *et. seq.*

14. Defendants are the "manufacturers" and/or "sellers" of the Crossbow for the purposes of Ind. Code § 34-20-1-1 *et. seq.*

15. Defendants are engaged in the business of manufacturing and/or selling the Crossbow.

16. Defendants sold, leased or otherwise placed the Crossbow into the stream of commerce.

17. On August 9, 2014, Rybolt purchased a Crossbow from Defendant, Gander Mountain.

18. Feipel was in a class of persons the Defendants should have reasonably expected to be subject to the harm caused by the defective condition of the Crossbow.

19. Defendants should have reasonably foreseen that the Crossbow would, in the ordinary course of business, come into Feipel's hands without substantial alteration in its condition.

20. On August 24, 2012, Feipel put the Crossbow to its intended use by firing the Crossbow during which the bowstring released and severely injured Feipel's left thumb.

21. The Crossbow was unreasonably dangerous and/or defective in that it did not contain an adequate guard to protect a user's and/or consumer's thumb from the bowstring.

22. As a direct and responsible cause of the Crossbow's unreasonably dangerous and/or defective nature, Feipel suffered severe and permanent injuries.

WHEREFORE, Plaintiff, Ted Feipel, requests that the Court enter judgment in his favor and against the Defendants, Gander Mountain Company d/b/a Gander Mountain and Hunter's Manufacturing Company, Inc. d/b/a TenPoint Crossbow Technologies, for all damages available under Indiana law, interest, costs, and for all other just and proper relief.

COUNT II: Negligence

23. Feipel incorporates by reference each paragraph above as if the same were fully set out herein.

24. Defendants were under a duty to exercise reasonable care in the design, manufacturing, distribution and/or sale of the Crossbow in a reasonably safe condition so as not

to present a danger to the users and/or consumers of the Crossbow.

25. Defendants breached their duty to exercise reasonable care in designing, manufacturing, distributing and/or selling the Crossbow, which resulted in Feipel severely injuring his thumb and incurring damages.

26. The negligent conduct of the Defendants includes, without limitation, the following:

- a. Failing to equip the Crossbow with a grip guard to protect the user from unintentional placement of his thumb in the path of the moving bowstring;
- b. Failing to equip the Crossbow with a shield to protect a user from unintentional placement of his thumb in the path of the moving bowstring;
- c. Failing to equip the Crossbow with a safety button to be depressed by user's thumb to protect the user from unintentional placement of his thumb in the path of the moving bowstring;
- d. Failing to equip the Crossbow with an automatic cut off or safety guard that would prevent the crossbow from firing when it was being held in a way that a user's thumb would be in the path of the bowstring;
- e. Failing to provide adequate and effective warning to users of the Crossbow; and
- f. Placing the Crossbow into the stream of commerce when it was in a defective condition that was unreasonably dangerous to users and/or consumers.

27. Defendants are legally responsible for the damages incurred/suffered by Feipel as

a result of the Crossbow's faulty design.

28. As a direct and responsible cause of the Defendants' negligent conduct, Feipel has suffered and continues to suffer damages including, but not limited to, personal injuries, bodily disfigurement, physical pain and suffering, mental anguish, medical bills and loss of income.

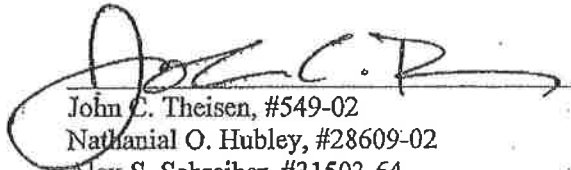
WHEREFORE, the Plaintiff, Ted Feipel, requests that the Court enter judgment in his favor and against the Defendants, Gander Mountain Company d/b/a Gander Mountain and Hunter's Manufacturing Company, Inc. d/b/a TenPoint Crossbow Technologies, for all damages available under Indiana law, interest, costs, and for all other just and proper relief.

JURY DEMAND

Plaintiff, Ted Feipel, by counsel, hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

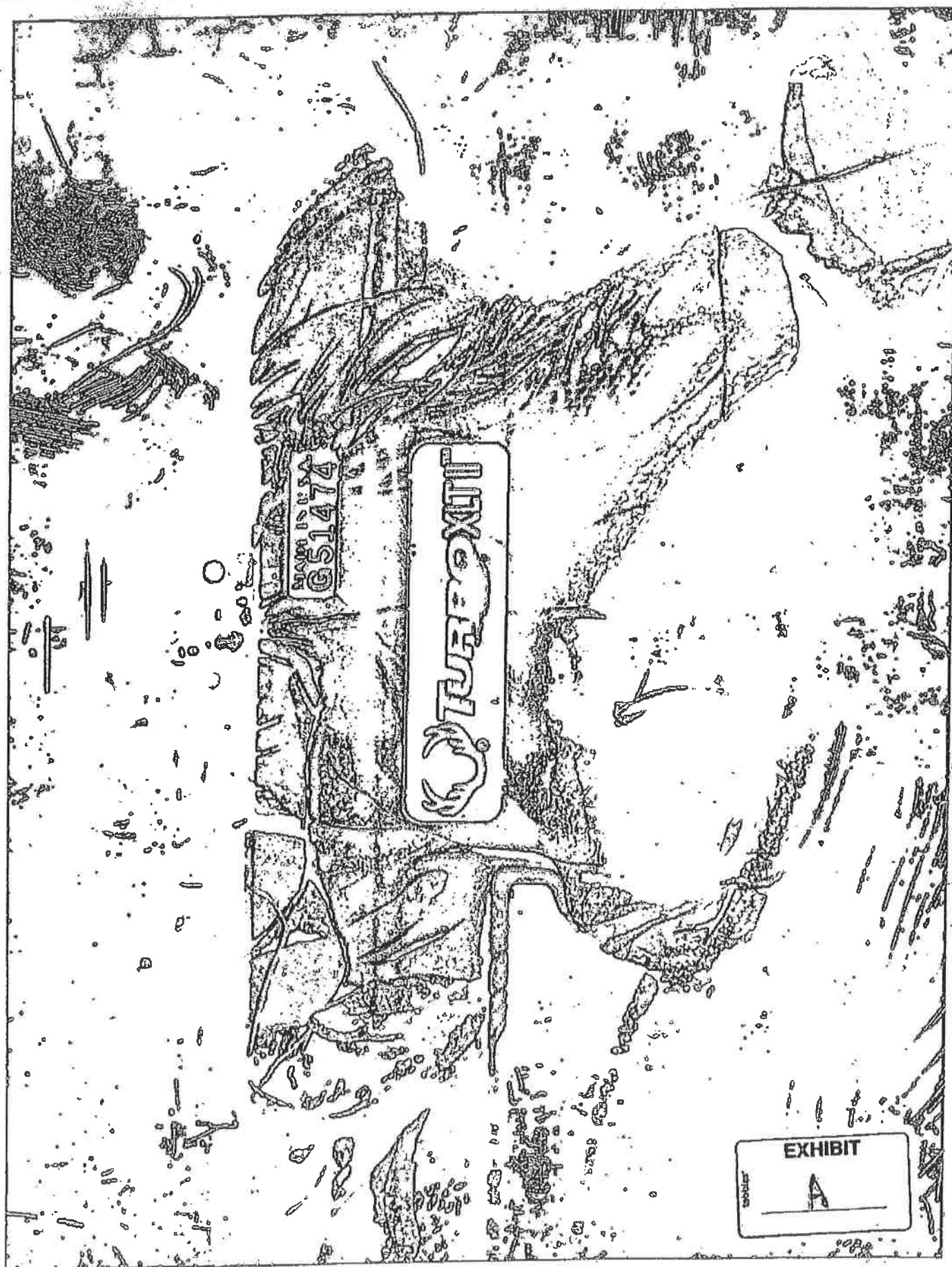
THEISEN & ASSOCIATES, LLC

A handwritten signature in black ink, appearing to read "John C. Theisen", is written over a horizontal line.

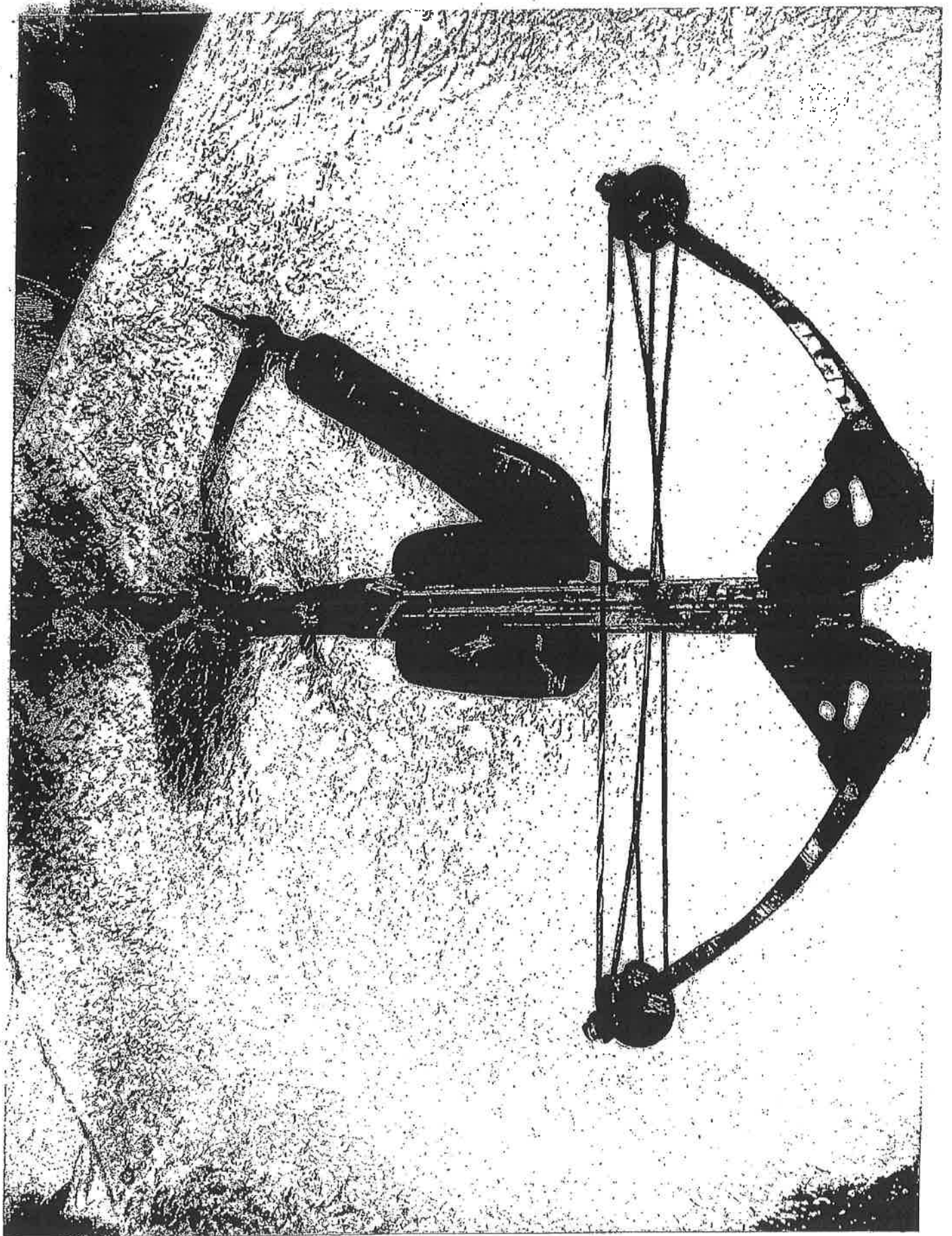
John C. Theisen, #549-02
Nathanial O. Hubley, #28609-02
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Fort Wayne, Indiana 46802
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Attorneys for Plaintiff

30% POST CONSUMER
RECYCLED PAPER

A







[The body of the document contains extremely faint, illegible text, likely due to poor scan quality or redaction. The text is organized into several paragraphs across the page.]

Exceptions by category are as follows:
 • Firearms, Ammunition, and Black Powder
 • Power Equipment
 • Books and Literature
 • Proper ID will be required in the form of a state issued driver's license or state ID card.
 • 90 days
 • check at the lowest price within the last 90 days.
 • With a store merchandise credit or mail
 • the policies below, will be refunded, subject to

Gander Mountain #187
 6043 Lima Road
 Fort Wayne, IN 46818
 (260) 416-0943

8/9/12 8:45 PM
 Trans.: 1988 Store: 00187
 Reg.: 020 T111:020
 Cashier: 519160 Sales: 519160

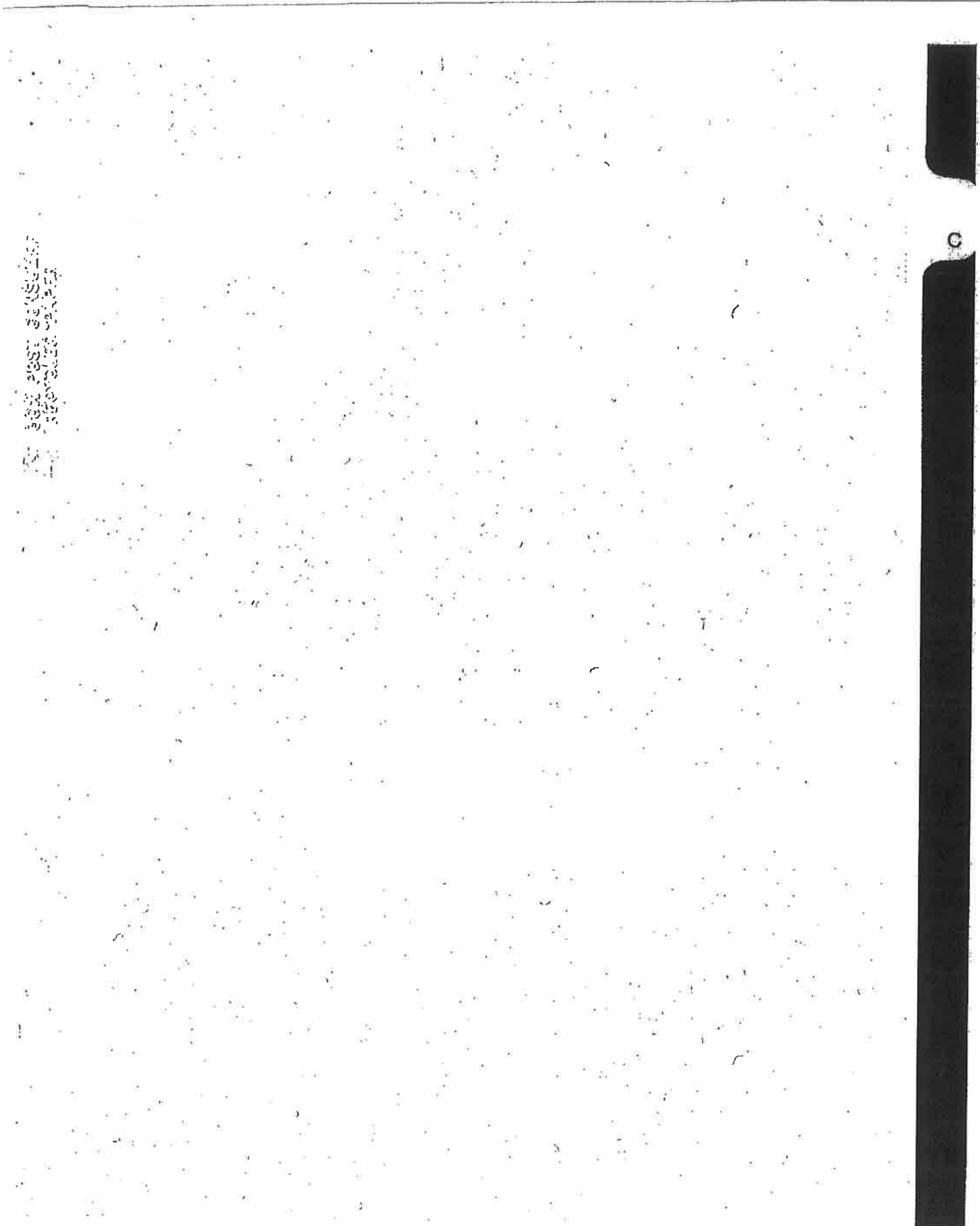
SALE



Low Camera KIT	129.99	T
616376501746	1 @ 129.99	
Surge Crossbow 20In	34.99	T
044734968557	1 @ 34.99	
Titan Xtreme	599.99	T
788244008623	1 @ 599.99	
Ranger Glove:RealTree AP	19.99	T
019327042419	1 @ 19.99	
5 Piece Ghillie Suit:Woo	69.99	T
846637000019	1 @ 69.99	
Regular ->	1 @ 99.99	
12 Pack Glove Size Warme	9.99	T
037137196412	1 @ 9.99	
CR Doe Urine 2 oz.	7.99	T
707114011709	1 @ 7.99	

EXHIBIT

tabbies



MRN: 848294 Visit: 10023522 DocType: FINAL RADIOLOGY GENERAL

Patient Name: FEIPEL, Ted M MRN: 848294
Account: 10023522
103157906
Parkview Health
Diagnostic Imaging Report

Examination: Right thumb 3 views
Date of Exam: Aug 24, 2012 08:47:00 PM.

Comparison: None.

Relevant Clinical Information: pt got his 1st digit in the while
while shooting a x-bow, visible laceration on lateral side of 1st
digit.

Number of Images: 3

Discussion: There is a distal phalangeal tuft transverse displaced
fracture. No radiopaque foreign body is identified.

Impression: Distal phalangeal tuft displaced fracture.

Carla J Brumbaugh, MD

Transcription ID: POWERSCRIBE
D: 08/24/2012 20:55:16

Job ID: 1691831

ORDERING: Kruse, Elaine Louise PA
PATIENT: FEIPEL, Ted M
MRN: 00848294
DOB: 08/17/1961
VISIT/ADMIT DATE: 08/24/2012
EXAM DATE: 08/24/2012
LOCATION: Emergency Department - Exam
PATIENT TYPE: E
103157906 RAD - Finger (1 or 2) - Minimum 2 Views - Left

Electronically signed by: Carla J Brumbaugh MD, at 8/24/2012 8:58:52 PM

